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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,575	11/28/2003	Martin Broberg	8688.027.USD000	4961
74217 7590 06/25/2008 NOVAK, DRUCE + QUIGG L.L.P. 1300 Eye Street, N.W. 1000 West Tower Washington, DC 20005				
EXAMINER				
GOFF II, JOHN L				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
06/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/722,575

Applicant(s)

BROBERG ET AL.

Examiner

John L. Goff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,10-12,14-17,24-55,59,60 and 63-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,10-12,14-17,24-55,59,60 and 63-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/22/08 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 17, 24-29, 31-36, 64, and 65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 requires "the lower side of the core consists of a balance layer". It is noted that as described in applicants specification the balance layer is the layer provided below the lower side of the core. The balance layer is not part of the core. It is suggested applicants amend claim 1 to insert - - below - - before "the lower side of the core consists of a balance layer" to overcome the rejection. This is the interpretation given the claim by the examiner.

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6. Claim 1 requires “the lower side of the core consists of a balance layer” and “said balance layer consisting of a single polymer layer, said polymer consisting of a thermoplastic polymer”. The examiner interprets the above language as requiring that below the lower side of the core is provided only with a single layer of thermoplastic polymer which “consisting of” language excludes any other layers below the core or any other layers within the balance layer. However, dependent claims 17, 31, 32, 64, and 65 require a bonding layer between the core and the balance layer and claims 24-29 and 33-36 require the balance layer includes a conductive material in addition to the thermoplastic polymer. It is suggested that applicants delete the dependent claims or amend the independent claim to require - - the lower side of the core consists of a balance layer and optionally a bonding layer - - and - - said balance layer consisting of a single polymer layer and optionally a conductive material, said polymer consisting of a thermoplastic polymer - - to overcome the rejection.

Claim Rejections - 35 USC § 103

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claims 1, 2, 10-12, 14-17, 30-32, 37-55, 59, 60, 63, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sjoberg et al. (WO 02/47906) in view of either Min (U.S. Patent 6,093,473) or JP 01310058 (Newly cited from related application 11/129,497 and see also the abstracts) and Moebus (WO 01/21366 and see also English equivalent U.S. Patent 6,761,961).

Sjoberg et al. disclose a method of manufacturing a decorative laminate used for floor coverings comprising providing a carrying core layer, e.g. fiber board, providing a dampening (e.g. acoustic dampening) foil layer of a thermoplastic polyolefin elastomer on the upper side of the core layer, providing an uppermost decorative and abrasion resistant thermosetting laminate layer on the foil layer, and then pressing to form the decorative laminate (Page 1, lines 17-26 and Page 2, lines 12-14). Sjoberg et al. are silent as to the lower side of the core layer consisting of a balance layer. It was known to provide in a decorative laminate as the layer beneath the carrying core layer (10 of Figure 2 of Min and 1 of Figure 3 of JP 01310058) a balance layer (11 of Figure 2 of Min and 5 of Figure 3 of JP 01310058) the balance layer consisting of a single soft polyvinyl chloride (PVC) layer to prevent warping of the laminate and provide improved cushioning as shown by Min (Column 8, lines 32-42) or the balance layer consisting of ethylene foaming material considered a thermoplastic elastomer, e.g. conventionally polyethylene and a foaming agent, to provide improved cushioning as shown by JP 01310058 (See the abstracts and 5 of Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include on the lower side of the core layer taught by Sjoberg et al. a balance layer as shown by either one of Min or JP 01310058 to prevent warping of the laminate and provide improved cushioning.

Regarding claim 1, Sjoberg et al. do not specifically teach the decorative laminate is cut into panels and provided with edges intended for joining, it being noted Sjoberg et al. teach the decorative laminate is used for floor coverings (Page 1, lines 6-8). Moebus discloses a method of manufacturing a decorative laminate used for floor coverings comprising providing a carrying core layer, providing an upper decorative and abrasion resistant laminate layer on the upper side of the core layer, pressing to form the decorative laminate, and then cutting the decorative laminate into panels and milling edges on the cut panels intended for joining together as a floor covering (Column 1, lines 15-47 of U.S. Patent 6,761,961). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in Sjoberg et al. as modified by either one of Min or JP 0130058 the well known finishing steps for forming decorative laminates into floor coverings of cutting the decorative laminate into panels and milling edges on the cut panels intended for joining as shown for example by Moebus wherein only the expected results would be achieved.

Regarding claims 2, 10-12, 37, 38, 46, 47, 50, 54, and 55, Sjoberg et al. further teach the decorative and abrasion resistant laminate is formed by providing one or more underlay papers impregnated with phenol-formaldehyde resin, providing on the underlay papers one or more décor papers impregnated with melamine-formaldehyde resin, providing on the décor papers one or more overlay sheets impregnated with melamine-formaldehyde resin and hard particles such as silicon oxide, aluminum oxide, silicon carbide, etc. having an average size of 5 - 60 μm , and laminating the papers together under increased heat and pressure to form the upper decorative and abrasion resistant laminate having a thickness of 0.3 - 0.9 mm and a density of 1250 - 1500 kg/m^3 (Page 1, lines 27-28 and Page 2, lines 1-11).

Regarding claims 14-16, 39-42, 48, 49, and 51-53, as noted above Sjöberg et al. teach including a dampening foil of a thermoplastic elastomer which dampening foil is considered similar to the balance layer taught by Sjöberg et al. as modified by either one of Min or JP 0130058. Sjöberg et al. teach the dampening foil has an elasticity compression coefficient of 0.8 - 2.0 Mpa, a thickness of 0.1 - 0.5 mm, and a density of 180 - 330 kg/m³ (Page 2, lines 15-22). Absent any unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine the thickness, density, and elasticity compression coefficient of the balance layer as taught by Sjöberg et al. as modified by either one of Min or JP 0130058 for example by using the properties of a similar layer within the laminate such as the dampening foil as a function of providing a balance layer that prevents the decorative laminate from warping and provides cushioning as doing so would have required nothing more than ordinary skill and routine experimentation.

Regarding claims 17, 30-32, 43-45, and 64, Sjöberg et al. teach the upper decorative and abrasion resistant laminate, dampening foil, and carrying core layer are joined by means of melt-glue, heat, and pressure wherein it is considered obvious to join the balance layer to the core layer as taught by Sjöberg et al. as modified by either one of Min or JP 0130058 by the same.

Regarding claim 59, the soft PVC balance layer taught by Sjöberg et al. as modified by Min is considered a thermoplastic having an elastic property, i.e. a thermoplastic elastomer.

Regarding claims 59 and 60, the ethylene foaming material taught by Sjöberg et al. as modified by JP 0130058 is considered a thermoplastic polymer elastomer wherein the polymer is polyethylene or polyolefin.

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9. Claims 24-26, 29, 33-36, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sjoberg et al., either one of Min or JP 0130058, and Moebus as applied to claims 1, 2, 10-12, 14-17, 30-32, 37-55, 59, 60, 63, and 64 above, and further in view of Leukel et al. (U.S. Patent 4,770,916).

Sjoberg et al., either one of Min or JP 0130058, and Moebus as applied above teach all of the limitations in claims 24-26, 29, 33-36, and 65 except for a teaching of including a conductive material such as carbon black or carbon fiber in the glue and elastomer layers. Leukel et al. disclose a floor covering including rubber and glue layers wherein the layers include a conductive material such as carbon black or carbon fiber (conductivity greater than 500 kΩcm) to impart static dissipating properties to the floor covering (Column 3, lines 5-9 and 36-49 and Column 4, lines 59-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in all of the glue and elastomer layers of Sjoberg et al. as modified by either one of Min or JP 0130058 and Moebus a conductive material such as carbon black or carbon fiber to impart static dissipating properties to the entire decorative laminate floor covering as shown by Leukel et al.

10. Claims 24 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sjoberg et al., either one of Min or JP 0130058, and Moebus as applied to claims 1, 2, 10-12, 14-17, 30-32, 37-55, 59, 60, 63, and 64 above, and further in view of Nowell et al. (U.S. Patent 4,885,659).

Sjoberg et al., either one of Min or JP 0130058, and Moebus as applied above teach all of the limitations in claims 24, 27-29, and 65 except for a teaching of including a conductive material such as a vacuum metallized aluminum layer in the balance layer. Nowell et al. disclose

a floor covering including a thermoplastic layer wherein the thermoplastic layer includes a conductive material such as a vacuum metallized aluminum layer (conductivity greater than 500 kΩcm) to impart static dissipating properties to the floor covering (Column 2, lines 3-18 and Column 4, lines 18-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the each of the thermoplastic layers of Sjöberg et al. as modified by either one of Min or JP 0130058 and Moebus a conductive material such as a vacuum metallized aluminum layer to impart static dissipating properties to the entire decorative laminate floor covering as shown by Nowell et al.

11. Claims 1, 2, 10-12, 14-17, 30-32, 37, 38, 46-50, 54, 55, 59, 60, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 0130058 in view of Sjöberg et al. and Moebus.

JP 0130058 discloses a method of manufacturing a decorative laminate used for floor coverings comprising providing a carrying core layer (1 of Figure 3) wherein the upper side of the core is provided with a decorative and abrasion resistant thermosetting laminate (2 and 3 of Figure 3) and that below the lower side of the core consists of a balance layer (5 of Figure 3) consisting of ethylene foaming material considered a thermoplastic elastomer, e.g. conventionally polyethylene and a foaming agent, having the purpose of acoustic dampening and also considered to prevent warping of the decorative laminate (See abstracts). JP 0130058 is silent as to the specific material of the carrying core. Sjöberg et al. directed similarly to decorative laminate used for floor coverings fully described above teach the carrying core comprises fiber board. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the carrying core in JP 0130058 those materials known as

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useful and suitable in the art such as fiber board as shown by Sjoberg et al. only the expected results being achieved.

Regarding claim 1, JP 0130058 does not specifically teach the decorative laminate used for floor coverings is cut into panels and provided with edges intended for joining. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in JP 0130058 as modified by Sjoberg et al. the well known finishing steps for forming decorative laminates into floor coverings of cutting the decorative laminate into panels and milling edges on the cut panels intended for joining as shown for example by Moebus wherein only the expected results would be achieved.

Regarding claims 2, 10-12, 37, 38, 46, 47, 50, 54, and 55, JP 0130058 is silent as to the specific of the upper decorative and abrasion resistant laminate. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the specific upper laminate taught by JP 0130058 the known laminate specifically shown by Sjoberg et al. having suitable decorative and abrasion resistant properties.

Regarding claims 14-16, 48, and 49, JP 0130058 is silent as to the specific properties of the balance layer. As noted above Sjoberg et al. teach including a dampening foil of a thermoplastic elastomer which dampening foil is considered similar to the balance layer taught by JP 0130058. Sjoberg et al. teach the dampening foil has an elasticity compression coefficient of 0.8 - 2.0 Mpa, a thickness of 0.1 - 0.5 mm, and a density of 180 - 330 kg/m³ (Page 2, lines 15-22). Absent any unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine the thickness, density, and elasticity compression coefficient of the balance layer as taught by JP 0130058 as modified by

Sjoberg et al. for example by using the properties of a similar layer within the laminate such as a dampening foil as a function of providing a balance layer that provides acoustic dampening.

Regarding claims 17, 30-32, and 64, JP 0130058 is silent as to how the layers of the laminate are joined. It would have been obvious to one of ordinary skill in the art at the time the invention was made to join the layers taught by JP 0130058 as modified by Sjoberg et al. by means of melt-glue, heat, and pressure as shown by Sjoberg et al. only the expected results being achieved.

12. Claims 24-26, 29, 33-36, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 0130058, Sjoberg et al., and Moebus as applied to claims 1, 2, 10-12, 14-17, 30-32, 37, 38, 46-50, 54, 55, 59, 60, and 64 above, and further in view of Leukel et al.

JP 0130058, Sjoberg et al., and Moebus as applied above teach all of the limitations in claims 24-26, 29, 33-36, and 65 except for a teaching of including a conductive material such as carbon black or carbon fiber in the glue and elastomer layers. Leukel et al. disclose a floor covering including rubber and glue layers wherein the layers include a conductive material such as carbon black or carbon fiber (conductivity greater than 500 k Ω cm) to impart static dissipating properties to the floor covering. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in all of the glue and elastomer layers of JP 0130058 as modified by Sjoberg et al. and Moebus a conductive material such as carbon black or carbon fiber to impart static dissipating properties to the entire decorative laminate floor covering as shown by Leukel et al.

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13. Claims 24 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 0130058, Sjöberg et al., and Moebus as applied to claims 1, 2, 10-12, 14-17, 30-32, 37, 38, 46-50, 54, 55, 59, 60, and 64 above, and further in view of Nowell et al.

JP 0130058, Sjöberg et al., and Moebus as applied above teach all of the limitations in claims 24, 27-29, and 65 except for a teaching of including a conductive material such as a vacuum metallized aluminum layer in the balance layer. Nowell et al. disclose a floor covering including a thermoplastic layer wherein the thermoplastic layer includes a conductive material such as a vacuum metallized aluminum layer (conductivity greater than 500 kΩcm) to impart static dissipating properties to the floor covering. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the thermoplastic layers of JP 0130058 as modified by Sjöberg et al. and Moebus a conductive material such as a vacuum metallized aluminum layer to impart static dissipating properties to the entire decorative laminate floor covering as shown by Nowell et al.

Double Patenting

14. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

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ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

15. Claims 1, 2, 10-12, 14-17, 30-32, 37-55, 59, 60, 63, and 64 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 5-7, and 9-25 of copending Application No. 11/129,497 in view of either one of Min or JP 0130058 and Moebus. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 2, 5-7, and 9-25 of copending Application No. 11/129,497 disclose the invention substantially as claimed except for teaching of including a balance layer consisting of a single thermoplastic polymer layer as the only layer on the lower side of the core layer and cutting the decorative laminate into panels and providing the panels with edges intended for joining which would have been obvious in view of either one of Min or JP 0130058 and Moebus as discussed above.

This is a provisional obviousness-type double patenting rejection.

16. Claims 24-26, 29, 33-36, and 65 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 5-7, and 9-25 of copending Application No. 11/129,497, either one of Min or JP 0130058, and Moebus as applied to claims 1, 2, 10-12, 14-17, 30-32, 37-55, 59, 60, 63, and 64 above, and further in view of Leukel et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 2, 5-7, and 9-25 of copending Application No. 11/129,497, either one of Min or JP 0130058, and Moebus disclose the invention substantially as claimed

except for a teaching of including a conductive material in the glue and elastomer layer which would have been obvious in view of Leukel et al. as discussed above.

This is a provisional obviousness-type double patenting rejection.

17. Claims 24 and 27-29 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 5-7, and 9-25 of copending Application No. 11/129,497, either one of Min or JP 0130058, and Moebus as applied to claims 1, 2, 10-12, 14-17, 30-32, 37-55, 59, 60, 63, and 64 above, and further in view of Nowell et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 2, 5-7, and 9-25 of copending Application No. 11/129,497, either one of Min or JP 0130058, and Moebus disclose the invention substantially as claimed except for a teaching of including a conductive material in the thermoplastic layer which would have been obvious in view of Nowell et al. as discussed above.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

18. Applicant's arguments with respect to claims 1, 2, 10-12, 14-17, 24-55, 59, 60, and 63-65 have been considered but are moot in view of the new ground(s) of rejection.

Applicants argue, "Accordingly; by the foregoing amendment, Applicants have adopted the Examiner's suggested language and submit that the previous arguments, i.e. that "an asymmetrical upper and lower layer on opposite sides of a core" distinguish the stated rejections of Sjoberg et al (WO 02/47906) in view of any one of Mason (U.S. Patent No. 1,995,264), Berry et al. (U.S. Patent No. 4,406,455), or Karam (U.S. Patent No. 6,485,823) and Moebus (WO

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01/21366 or U.S. Patent No. 6,761,961), as to claims 1, 2, 4, 10-12, 14-17, 30-32, 37,55, 59, 60 and 63; or further in view of Leukel et al. (U.S. Patent No. 4,770,916) as to claims 24-26, 29 and 33-36; or alternatively in further view of Nowell et al. (U.S. Patent No. 4,885,659) as to claims 24 and 27-29, under 35 U.S.C. §103(a) as the rationale of these rejections is that it would be obvious to duplicate (or make symmetrical) the layers on the top and bottom sides of a core, has also been rebutted by the foregoing Amendment and Remarks.”.

As agreed in the interview the amendment overcomes the rejections including Mason, Berry, or Karam wherein the laminate is made symmetrical.

Applicants further argue, “Reconsideration of the rejection of claims 1, 2, 4, 10-12, 14-17, 29-32, 37-55, 59, 60 and 63 under 35 U.S.C. §103(a) as being unpatentable over Sjoberg et al in view of Min (U.S. Patent. No. 6,093,473), Uebayashi et al. (U.S. Publication No. 2001/0011114) and Moebus is respectfully requested. The deficiencies of Sjoberg, Moebus have been discussed above. Min uses a thermoplastic (polyvinyl chloride or “PVC”) as the lower layer of “the abrasion resistant laminate” itself; co1 8; lines 11-14. He does not use it as balance layer on side of a fiber board core with the other side containing a thermosetting laminate, as claimed. Accordingly, the combination of Min, Sjoberg et al. and Moebus still does not establish a *prima facie* case of obviousness. While Uebayashi may show elastomers are more recyclable than previous thermoplastic materials, such would still not provide the structure herein, claimed.”.

Min teaches “A thin balance layer is typically laminated onto the bottom surface of the polymeric substrate to provide balance, reduce curling and/or warping of the product, to help the product to conform to the floor surface, and to improve its sound deadening characteristics”.

The polymeric substrate referred to as the “base layer” by Min (10 of Figure 2) is analogous to

the fiber board carrying core taught by Sjoberg as each are provided on the upper surface with a decorative and abrasion resistant laminate (5 of Figure 2) such that it would have been obvious to include the balance layer (11 of Figure 2) taught by Min in Sjoberg for the advantages given by Min. It is noted that in the interview on 3/28/08, the only interview in which the rejection over Min was discussed, the examiner did not agree to any amendment that would overcome the rejection as any specific amendment other than that which overcame the symmetrical references was not proposed.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/
Primary Examiner, Art Unit 1791